

R & R fax. Betsy Franklin - call to discuss

15 mins

2/21 Spoke to Betsy - no help. denies claims - talk (.6)
to check make sure back up docs
follow up email (.4)
fax Winston Law (.1)

2/26

Call Jay about CREDIT REPORT. NO ANSW follow up -

Spoke to Jay - says its a big mistake but
he will check & call me back ~~BAP~~

follow up tomorrow - Print out copies. Pull 3 credit
reports. Called BMEX to reduce limit.

Call Brian Bromberg in 2 credit reports (1.2)

CRIMINAL PENALTIES! (.6)

- follow up e-mails with IN. (.6) ~~with IN. (.6)~~
~~This is a issue~~

3/21
Jay Winston
212 532 2722
MOORE v. DCS

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dk
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April 2, 2007

4/6 Review letter (1.1)
Research points & cases (1.8)
calls client (.6)
phones JW to discuss (.2)
follow up → tomorrow

Dear Amir,

Please see the Answer. Affirmative defenses and Counterclaim that we are prepared to file with the court.

I am sending you this letter with the hope that you will reconsider dropping the lawsuit or agree to amend the complaint by stipulation so that the counterclaim is not necessary. As you indicated earlier, your client does not have all her facts straight and based on our prior conversation, she may not have disclosed all the facts to you.

Issue 1:

The damages sought in paragraph 28 and the Wherefore clause are not provided under the FDCPA. I think my counterclaim explains my client's position clearly.

Issue 2:

My client did not inflate the debt. I have in my possession the promissory note and have reviewed same. It is a standard government Stafford Loan promissory note that provides for the recovery of the collections costs by my client.

Issue 3:

The parties can always talk directly to one another. Your client contacted the U.S. Department Of Education, hereinafter, the "Gov't" directly, requested information, negotiated and settled with them. It is an undisputed fact that the Gov't has a legal right to use administrative garnishments. Further, no Judge would believe that a collection agency would control the Gov't and order the Gov't to institute the garnishment. No one can tell the gov't what to do. Finally, these communications and letters transpired over several months as admitted by your own complaint.

Facts: June 27th, 2006 my client sent a letter to your client (par. 10 of complaint)
October 19th, 2006 several months later, the Gov't contacted your client's employer. (Almost 4 months later - 145 days)

Issue 4: Your client created the situation, albeit without malice.
In paragraph 11, you state the letter from the gov't embarrassed her. As you admit, this letter was sent by the Gov't, not by my client. Thus, my client could not have caused the actual damages. Furthermore, basic principal agency law dictates that acts of the principal are not implied to the agent. In otherwords, while the principal may be liable for the agent's acts, liability does not flow in the reverse direction. See *Benatoivh v. Propis Agency*, 224 A.D. 2d 998, 637 N.Y.S.2d 551 (NY App. 4th Dept. 1996).

Call
Jay Wunsche
- try again follow up

if follow up
call them.

Wunsche

not withdrawn case
willing to testify.

4/13 Phoned client - follow up still disc/no movement
by D

Phone call ju - says they can not reason with
unit case dismissed - willing to fight

Phoned BB in re search
back up docs

5/10 Call ju for Rule 26 follow up email

5/11 follow up email ju Busy on front DCS

5/15 spoke w/ju in re Rule 26 - requested withdrawal
of counterclaims / try
to settle - work out

Says he will speak
to his clients & get back to me
- follow up thru.

Research/Leave to discontinue CC (25)
 Draft letter OT (5)

Leave to discontinue CC

Research

SELWICK v. MCS

00 CV 139 (S) 9/22/2000

KUHNS v. ACCOUNT TECHNOLOGY

865 F. Supp 1443 good case

105 R/E D response

chubby, react & work on it

call alan for consult & return

call fw for 41. This guy is a

to minimize phone

msg chart/return call (1)

6/4/07

calls Marie Moore

say [REDACTED]

follow up JW
 (.4)

102 Ron does fw - [REDACTED] (1.5)

(claims there's no case)

follow up if cheat

spoke to direct/fw/lead (1)

follow up calls (2)(1)

updated mem - gear for conf. no need to attend

call fw try to adjust in or phone conf (1)

no ans/follow up (2)

check credit reports

7/6 Initial Disposition/served 1.

Prep outline/research/draft

Opp memo to strike ~~XXXX~~

talk to ~~XXXX~~ get cases to

7/5 Initial Sched Conf.
(6)
talk to Jay
need disclosures
check on Sfluent.
Phons (3)

7/9
2007 O. briefing & schedule
discuss 3/1/12
call long-term...

8/14 Finalizing motion

Draft Serve

CC - final format 5.5

Send out for services

or e/corr?

8/15 R&R fw resp
Motion Dismiss 4.5

Call fw try to discuss 3

follow up e-mail 1

*
*
~~XXXX~~
~~XXXX~~
~~XXXX~~
~~XXXX~~

8/15

Phons
Marie
Moore

~~XXXX~~
(-1)

9/6-9/7 finish 3.0
Prep app memo 2.5
Research/draft revise 3.5
Review & consult 5
(9.5)

9/20

Phoned Jay Wagon
~~XXXX~~ 4
e-mail 3